

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-01-16
Baltimore, Maryland 21244-1850



Division of Integrated Health Systems, Family and Children's Health Programs Group, CMSO

Kathryn Kuhmerker, Deputy Commissioner
Office of Medicaid Management
New York State Department of Health
Corning Tower
Governor Nelson A. Rockefeller Empire state Plaza
Albany, **NY** 12237

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

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To Julie Jones	From Kate Nardo
Dept./Agency	Phone # (212) 264-9121
Fax # 716-786-5582	Fax #

NSN 7540 01 217 7388 5000 101 GENERAL SERVICES ADMINISTRATION

Dear Ms. **Kuhmerker**:

On June 10, 2002, the State of New York submitted a request to renew its section 1915(b)(4) non-emergency transportation waiver. All waiver requests **under** section 1915(b) of the Act are subject to requirements that the State document the cost-effectiveness of the **project**, its effect on recipient access to services, and its projected impact (**42CFR 431.55(b)(2)**). After extensive analysis of the renewal material submitted by the State, we believe that additional information is required before we can render a decision on the State's request. The State's renewal application lacks sufficient cost effectiveness information to determine whether the waiver has been cost effective in the preceding waiver period or whether it is projected to be cost effective in the upcoming waiver period. There are also numerous programmatic questions about this waiver that need to be addressed.

Under section 1915(f)(2) of the Act, a waiver request shall be deemed **granted** unless, within 90 days after the date of its submission, the request is denied or the State is informed in writing of any additional information which is needed in order to make a final determination, with respect to the request. The attached set of questions constitutes such a formal additional information request pursuant to Section 1915(f) of the Act.

Given the three temporary extensions that have already been granted by **CMS**, we must require a full and complete response to **our** questions by September 2, 2002 in order to properly review the waiver renewal request. We **would** be glad to assist the State to respond to this request **and** complete their waiver submission. If you have any questions regarding this matter, please contact Julie Jones at (410) 786-3039 or Michael Melendez at (212) 264-9121.

Sincerely,

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Stacy Kelly
Associate Regional Administrator
Division of Medicaid and State Operations

cc. M. Fiore
G. Smith

Attachment

Non-emergency Transportation Waiver Renewal
1915(b)(4)
Comments

Renewal of the New York Non-Emergency Transportation Program

1. Page 8. J. Distance/Travel Times: Is there a limit on the number of pickups per ride? Is there a standard for the amount of time the driver must wait for a rider?
2. Page 9. K. Independent Assessment: Since there are new districts which will be included in this waiver, the State should continue to conduct **an** independent assessment of the waiver effectiveness **as** it has done in previous years.
3. Page 10. Description of Current Waiver Initiatives, **#4**. This section discusses Allegany County **and** its 1999 submission and being pended while CMS and SDOH discuss the future of the waiver program. CMS has **no** records of approving this county to participate in the waiver **program**. We do have correspondence of requests for additional information (RAI) advising the State that the clock will restart upon receipt of complete responses to the **RAI**. We have no record of this being completed. We have copies of correspondence to the State and to CMS, **from** Transportation providers covering this county, that imply that the waiver is operational in Allegany County. These **letters** also allege that possible double billing for transportation services may have occurred.
 - a. Has the State performed **an** audit to see if **any** double billing occurred in this county? What is the status of the waiver in this county?
 - b. Has the county in fact implemented the waiver? If yes, under what approval authority is the county restricting freedom of choice of provider?
 - c. What correspondence has been provided to the county granting approval?
 - d. Was a request for proposal or some other bidding process undertaken to select the transportation provider being used in the county?
 - e. What is the State doing to look into and resolve the issues raised by the transportation providers serving Allegany county?
4. Page 10. 2. Regarding two new initiatives, Orange **and** Steuben, when will these applications **from** the districts to the State be submitted to CMS for review? Is the information in the renewal request to be considered the official request or **will** some other waiver request for these two counties be submitted for review? Information from these applications is needed for CMS to review the State's request to implement programs in these Districts.
5. Page 11. The middle paragraph states that "When the recipient will experience a financial hardship due to the level of incurred transportation expenses, the Department

will arrange and pay for transportation services in order to eliminate this barrier and to make accessible necessary medical care and services.” How does the Department define “financial hardship?” Please describe the process that is undertaken to make **this** determination.

6. Page 11. #1. Notification Process: You state that the written explanation of the new system will be mailed to all users of transportation. How do you determine who is a user of transportation? Why isn't a notification sent to all potentially eligible Medicaid recipients? Are notifications posted in areas where potential eligibles receive services, such as doctor offices, etc? Do the procedures to be followed to receive services **vary** by district? Please describe these procedures.

7. Please describe the prior authorization process. If this varies by district, please provide details on the various methods **used** in each district.

8. Page 12. Please provide an example of an initial notification letter from a district.

9. Page 15. b. Please provide the assurance that a transportation provider cannot refuse to provide services to a waiver participant.

10. Page 18. 1. Service Access Areas, last paragraph. How do you define when it is necessary to counsel recipients on the effective means of requesting the appropriate mode of transportation services? Is there any initial counseling?

11. Page 18, Section IV. **B.** Monitoring Access. #2. What is **the** time frame for the State to visit each district following approval of the renewal? What **will** the State be examining during these site visits?

12. Page **19**. C. Complaints and Grievances. **Is** there a timeline for resolution of complaints and grievances? How long must a recipient wait for provider resolution before they are allowed to bring their complaint to district staff? What is the timeline for the district to resolve complaints and grievances? How **are** recipients notified/educated about their right to a fair hearing and other steps in the grievance process?

Cost Effectiveness

13. Please revise your cost effectiveness tables located in Appendix F for each District and provide, **on** a PMPM (per capita) basis, **as** well as in the aggregate, the following information:

A. Actual expenditures for the previous period compared to without waiver estimates.

B. The estimated with waiver expenditures for the renewal period compared to without waiver estimates.

Please revise the tables to show total savings only for FY 2003 **and** FY 2004, the actual years for the two year renewal period.

14. In place of the current savings table on page 24, please summarize this information into a table, similar to the one attached, which includes information for all Districts as well as savings over the two year waiver period.

15. Please provide information/justification of the trend increases that you are requesting for your "without waiver" baseline for each of the districts.

16. It appears that each district pays a lump sum to each county to manage non-emergency transportation (NET) services, and then the district arranges/pays for each NET service. Is the lump sum paid out on a per capita basis or is it an aggregate amount? How is this payment amount determined? Is it a monthly or yearly payment? Is it determined prospectively? If it is an aggregate amount, how does the State reconcile the payment to actual expenditures (i.e. actual services provided)? If this arrangement varies by county, please provide a table which indicates the payment method in each district.

17. Please provide information explaining how the contractors are paid. This explanation should follow the funds for all levels, ie. State draw down of federal dollars, State payment to county, county payment to contractor. How are the contractors paid, annually, quarterly, what initiates payment to the contractor?

18. Federal procurement rules state that, to the maximum extent practical, contracts should be awarded through an open procurement process. Were the district providers selected through an open procurement process? If not, please explain the appropriateness for setting an exception to the open procurement process.

Appendix C

19. Page 4. 3rd paragraph, 3rd sentence. How do counties determine what is a valid grievance or complaint?

Appendix F

Allegany County

20. Page 4. When was the contract signed with Allegany County Transit (ACT)? Was there an RFP or bidding process to select the contractor?

How many subcontracts did ACT undertake during their term as the contractor and how many subcontracts does ACT currently have? What is the frequency of making arrangements with the subcontractors to provide services? How are payments to subcontractors monitored?

The narrative implies that the initiative is under way. Is the initiative and the waiver the same thing? As written it appears to imply that it is the case. The narrative also states that the selected coordinator, ACT, was to reimburse for non-emergency ambulance services from the approved amount paid to them. The county assumed this would be

phased in over time ending in 2002. As written, it appears to state that the county is now reimbursing for non-emergency ambulance during the phase in **time** period. Are these services different than those that **ACT** was **already** paid to coordinate? What is the status of the discussions with the county to resolve the matter?

While the table, showing anticipated savings for the program shows projected savings in the 3 years of the renewal, **the** first two years show a deficit. In 2000 **and** 2001 the **county** over spent the target expenditures. How has the county demonstrated to the State that they **will** be able to meet the target expenditures **and** operate the program at a savings? Even with the projected savings at the end of the **5** years of the program, the county is still operating **at** a deficit.

Chautaugua County

21. What services are subcontracted out?

Oswego County

22. In the **costs** analysis section, you state **that** the amount paid is based **on** one way trip basis. Does this **mean** that each trip **that** would constitute a round trip **is** paid for each segment of the trip, or is the full trip paid based on a one way basis?

		New York State Medicaid Transportation Waiver									
		Fiscal Impact: Participating District Initiatives									
		Annual Transportation Expenditure Analysis and Forecast									
		Initial Two Year Waiver Data									
District	Total Eligibles	Anticipated	Anticipated	Actual Expenditure	Actual	Estimated	Estimated	Estimated	Estimated		
Name	Monthly Average	Expenditure	Expenditure	with waiver	Expenditure	Expenditure	Expenditures	Expenditures	Expenditures		
		without waiver	Per Eligible		Per Eligible	Per Eligible	With Waiver	Per Eligible	Per Eligible		
			Per Month		Per Month	Per Month			Per Month		

Total Savings